

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation and )  
Petition to Revoke Probation filed Against: )

DALE R. MONGRAIN, M.D. )  
Certificate No. G-29446 )

No: D1-1997-80340

Respondent )

**DECISION**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Division  
of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective at 5:00 p.m. on April 12, 2004

IT IS SO ORDERED March 11, 2004

By: 

STEVEN RUBINS, M.D.

Panel B

Division of Medical Quality

BILL LOCKYER, Attorney General  
of the State of California  
D. KENNETH BAUMGARTEN  
Deputy Attorney General  
State Bar No. 124371  
California Department of Justice  
110 West A Street, Suite 1100  
Post Office Box 85266  
San Diego, California 92816-5266  
Telephone: (619) 645-2195  
Facsimile: (619) 645-2061

Attorneys for Complainant

**BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**DALE R. MONGRAIN, M.D.**  
135 Main Street  
Brawley, CA 92227

Physician and Surgeon's  
Certificate No. G 29446

Respondent.

CASE NOS. D-1 1997-080340  
19-2000-114368

**STIPULATED SETTLEMENT  
AND  
DISCIPLINARY ORDER**

**IT IS HEREBY STIPULATED AND AGREED**, by and between the parties to  
the above-entitled proceedings, that the following matters are true:

**PARTIES**

1. Ron Joseph, ("Complainant") is the Executive Director of the Medical  
Board of California and has brought this action solely in his official capacity. Complainant is  
represented by the Attorney General of California, Bill Lockyer, by Deputy Attorney General  
D. Kenneth Baumgarten.

2. Dale R. Mongrain, M.D., ("Respondent") is represented in this matter  
by Mr. William R. Winship, Jr., Esq., 591 Camino De La Reina, Suite 300, San Diego, CA  
92108; (619) 297-0066.

///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2  
3

4  
5  
6  
7

8  
9  
10  
11  
12

## 13

14  
15  
16  
17  
18  
19

20  
21  
22  
23  
24  
25  
26  
27  
28

1                   8.     In order to avoid the expense and uncertainty of trial, Respondent  
2 knowingly, voluntarily and irrevocably waives and gives up each of these rights.

3                   9.     For purposes of settlement, Respondent hereby admits that at a hearing,  
4 Complainant could establish a prima facia case with respect to the allegations contained in the  
5 Accusation and Petition to Revoke Probation, appended hereto as **Exhibit A**.

6                   10.    By signing this Stipulation, Respondent hereby acknowledges he  
7 understands and agrees that he may not withdraw his agreement hereto, or seek to rescind the  
8 Stipulation, once it has been submitted to, considered and/or acted upon by the Division.

9                   11.    The parties agree that facsimile copies of this Stipulated Settlement and  
10 Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
11 effect as the original Stipulated Settlement and Disciplinary Order, and signatures thereto.

12                  12.    Respondent agrees to be bound by the Division's Disciplinary Order as  
13 set forth below.

14                  13.    In consideration of the foregoing admissions and stipulated matters, the  
15 parties agree the Division shall, without further notice or formal proceeding, issue and enter  
16 the following Order:

17                  14.    **DISCIPLINARY ORDER**

18                       **IT IS HEREBY ORDERED** that Physician and Surgeon's Certificate number  
19 G 29446, issued to Dale R. Mongrain, M.D., is **revoked**. However, such revocation is  
20 hereby **stayed** by the Division and Respondent is placed on **seven (7) years probation**.  
21 During the term of probation, Respondent shall comply with the Division's Probation  
22 Surveillance Program and the following terms and conditions:

23                       A.   **SUSPENSION FROM THE PRACTICE OF MEDICINE**

24                       As part of probation, Respondent shall be suspended from the practice of  
25 medicine in California for a period of **45 days** beginning with the effective date of the  
26 Decision in this matter. During this period of suspension, Respondent is prohibited from  
27 engaging in any conduct that requires a physician and surgeon's certificate.

28    ///

Respondent's failure to comply with this period of suspension shall constitute a breach of this agreement and a violation of probation.

**B. COMPLETION OF THE PACE PRESCRIBING PROGRAM<sup>1</sup>**

Within 90 days of the effective date of the Decision in this matter, Respondent shall, at his expense, enroll in and complete the PACE Prescribing Program at the University of California, San Diego School of Medicine.

Respondent shall complete this program no later than six months (180 days) after his initial enrollment unless the Division, or its designee, agrees in writing to a later time for completion. Respondent agrees that it will be the determination of the PACE Program faculty as to whether or not he has successfully completed this program and such decision shall be binding.

At such time that Respondent successfully completes the program, he agrees to cause the PACE Program representative to forward a Certification of Successful Completion of the program to the Division or its designee.

Failure by Respondent to successfully complete the PACE Prescribing Program within the time limits outlined above shall constitute a violation of probation.

**C. MAINTAIN SEPARATE CONTROLLED SUBSTANCE PRESCRIBING AND DISPENSING RECORDS**

During his period of probation, Respondent shall maintain separate controlled substance prescribing and dispensing records. Respondent shall further make such records open for inspection and copying at any time by any Medical Board personnel, or to any other peace officers of the State of California, on request and without prior notice.

**D. BIOLOGICAL FLUID TESTING**

During his period of probation, Respondent shall immediately submit to biological fluid testing, at his own expense, upon request of the Division, or its designee.

---

1. Respondent successfully completed the full PACE Program at UCSD on or about November 29, 2001. A certificate of completion was issued by PACE on September 30, 2002.

Respondent's failure to immediately comply with a request for such biological testing shall constitute a violation of probation.

E. **ETHICS COURSE**

Within ninety (90) days from the effective date of the Decision in this matter, Respondent shall enroll and successfully complete within 180 days an Ethics course approved in advance by the Division, or its designee.

Failure to complete this Ethics course within the time specified shall constitute a violation of probation.

F. **ADDITIONAL CONTINUING MEDICAL EDUCATION**

Within ninety (90) days from the effective date of the Decision in this matter, and on an annual basis thereafter, Respondent shall submit to the Division, or its designee, for its prior approval, an educational program or courses to be completed by Respondent each year, totaling no less than **25 hours per year**, which are focused on proper medical record keeping, or appropriate insurance billing, or the prescribing of dangerous drugs and controlled substances or general medicine. This additional continuing medical education shall be in addition to the Continuing Medical Education (CME) requirements for re-licensure.

Following his attendance at each course, Respondent shall submit to the Division, or its designee, proof of successful course completion, as well as evidence of a passing grade for each course examination taken. In the event the course taken by Respondent did not require he be tested on the subject matter of the course, the Division or its designee, at its sole discretion, may order and have administered an examination to Respondent to test his knowledge of each individual course taken.

G. **MEDICAL PRACTICE MONITOR<sup>2</sup>**

Within 60 days of the effective date of this Decision, Respondent shall submit to the Division, or its designee, for its prior approval, a plan of practice that includes the

---

2. Must be a licensed California physician and surgeon who has a working knowledge of the applicable standard of care requirements of Respondent's field of practice.

1 name and address of a medical practitioner who is willing to monitor Respondent's medical  
2 practice, at Respondent's sole expense, for a period of one (1) year from the effective date of  
3 the Decision in this matter. The duties of this practice monitor shall be specified in writing  
4 by the Division, or its designee, and shall be provided to Respondent on, or shortly  
5 thereafter, the effective date of this Decision, to assist Respondent in his efforts to locate a  
6 practice monitor suitable to the Division. Once approved, the practice monitor shall be  
7 required, among other things, to provide quarterly reports, or more frequently on request,  
8 to the Division, or its designee, as to Respondent's continuing compliance with the standards  
9 of medical care in California in his provision of medical care to his patients.

10               Respondent shall permit and help facilitate any and all requested  
11 communication between the practice monitor, the billing monitor who is also required as part  
12 of this Stipulation, and any of Respondent's patient(s), in order to implement this probation  
13 requirement. In addition, Respondent shall also maintain a current and accurate list of  
14 patients seen daily, in addition to maintaining individual medical records on such patients,  
15 and shall immediately provide this information on request to the Division or its designee, as  
16 well to the practice and billing monitors, also in order to implement this probation  
17 requirement.

18               If at any time the approved practice monitor resigns, or is no longer available  
19 to perform monitoring duties, Respondent shall, within **30 days**, move to have a new monitor  
20 appointed, through nomination by Respondent and prior approval by the Division or its  
21 designee. In no event may Respondent engage in the practice of medicine in California  
22 without an approved monitor for more than a **45 day** period, without the written approval of  
23 the Division, or its designee. In the absence of such approval, and should such an event  
24 occur, Respondent shall immediately cease the practice of medicine until such time as a new  
25 practice monitor has been approved by the Division, or its designee, and the new monitor  
26 resumes the monitoring duties required by this Stipulation.

27               In addition to regular monitoring duties, a new practice monitor shall initially  
28 review the medical charts of all patients treated by Respondent after the resignation of the

1 preceding monitor. The new monitor shall then include the findings of such chart reviews in  
2 his or her regular quarterly report to the Division, or its designee, or in a special report if so  
3 requested by the Division, or its designee.

4 Failure by Respondent to obtain an approved medical practice monitor within  
5 the times specified, or replace within the times specified a monitor who resigns or is no  
6 longer available, or continuing to practice in the absence of an approved practice monitor,  
7 without prior written approval, shall constitute a violation of probation.

8 H. MEDICAL PRACTICE BILLING MONITOR<sup>3</sup>

9 Within 60 days of the effective date of this decision, Respondent shall submit  
10 to the Division, or its designee, for its prior approval, the name of a billing monitor, together  
11 with a plan of practice, in which all of Respondent's third party payment medical practice  
12 billings shall be monitored and approved prior to submission for payment, at Respondent's  
13 sole expense, during his **seven (7) years** of probation. This billing monitor shall provide  
14 quarterly reports to the Division, or its designee, or more frequently if requested, as to the  
15 findings of such monitoring.

16 The approved billing monitor shall ensure the accuracy of all third party  
17 payment billings being submitted by Respondent for payment, including verification that such  
18 billings are consistent with the medical services provided by Respondent. Respondent shall  
19 permit, and help facilitate, any and all requested communication between the practice  
20 monitor, the billing monitor and any of Respondent's patients for whom third party payments  
21 have been submitted, in order to implement this probation requirement.

22 If the approved billing monitor resigns or is no longer available to perform  
23 such duties, Respondent shall, within 30 days, move to have a new billing monitor appointed,  
24 through nomination by Respondent and prior approval by the Division or its designee.

25 ///

26  
27 3. Must also be a licensed California physician and surgeon, with a working  
28 knowledge of Respondent's field of practice, and may be the same person as the medical  
practice monitor.



Respondent shall ensure, and must provide documentary evidence on request, that any new, replacement billing monitor, who has been approved by the Division, or its designee, has personally reviewed and approved all third party payment billings created by Respondent after the resignation of the previous billing monitor.

In no event may Respondent submit for payment any third party payment medical billings without an approved billing monitor and before such billings have been approved by the monitor for submission.

Failure by Respondent to obtain an approved third party payment billing monitor within the times specified, or replace within the times specified a billing monitor who resigns or is no longer available, or submits any billing for third party payment that has not been authorized by an approved billing monitor, shall constitute a violation of probation.

#### **I. COST RECOVERY**

Respondent shall reimburse the Division \$10,000.00 of the investigative and prosecution costs incurred in this action.

**On or before July 31<sup>st</sup> of each year**, during his seven (7) year probationary period, Respondent shall make a payment toward this cost recovery due. Each annual payment shall be in an amount of no less than \$1428.57 (one 7<sup>th</sup> of the \$10,000.00 cost recovery due), until paid in full.

Failure to pay these cost recovery payments within 30 days of the due date each year, without prior written approval of the Division, or its designee, shall constitute a violation of probation.

It is hereby agreed that the filing of bankruptcy by Respondent at any time during his period of probation shall not relieve him of his obligation to pay this cost recovery to the Division of Medical Quality.

In the event that, at some future date, the Division grants a reduction in Respondent's probationary period in this action, all unpaid cost recovery due pursuant to this Decision shall become immediately due and payable and shall also become a condition precedent to such a future modification of penalty.

1                   J.     PAY ANNUAL PROBATION COSTS

2                   Respondent shall pay the costs associated with his probation monitoring each  
3 and every year of probation, as designated by the Division, which may be adjusted on an  
4 annual basis. Such costs are currently \$2874.00 per year. Annual probation cost payments  
5 shall be payable to the Division of Medical Quality and delivered to the designated probation  
6 surveillance monitor **no later than January 31<sup>st</sup> of each calendar year.**

7                   Failure to pay these annual probation costs within 30 days of the due date,  
8 without prior written approval of the Division, or its designee, shall constitute a violation of  
9 probation.

10                  It is hereby agreed that the filing of bankruptcy by Respondent at any time  
11 during his period of probation shall not relieve him of his obligation to pay these annual  
12 probation costs to the Division of Medical Quality.

13                   K.     NOTIFICATION

14                  Prior to engaging in the practice of medicine, Respondent shall provide a true  
15 copy of the Decision and Accusation in this matter to the Chief of Staff or the Chief  
16 Executive Officer at every hospital where privileges or membership are extended to  
17 Respondent, at any other facility where Respondent engages in the practice of medicine,  
18 including all physician and locum tenens registries or other similar agencies, and to the Chief  
19 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
20 Respondent. Respondent shall submit proof of compliance to the Division or its designee  
21 within 15 calendar days of the effective date of the Decision in this matter.

22                  This condition shall apply to any and all future change(s) in hospitals, other  
23 facilities or insurance carrier.

24                   L.     SUPERVISION OF PHYSICIAN ASSISTANTS

25                  During probation, Respondent is prohibited from supervising physician  
26 assistants while engaged in the private practice of medicine, either in a solo or group practice  
27 setting. However, in the event Respondent becomes employed as a full time staff physician  
28 at a private hospital or by a governmental agency during his period of probation, and only

1 during the time he is employed in such a position, Respondent may supervise at least one, but  
2 not more than three, physician assistants if required as a term of such employment, but only  
3 if such physician assistants are employed by the hospital or governmental agency and not  
4 Respondent, and the scope of work to be performed by the physician assistants is defined and  
5 monitored by the hospital, not Respondent.

6 Any modification of this probationary term must be in writing and approved in  
7 advance by the Division, or its designee. Failure by Respondent to do so shall constitute a  
8 violation of probation.

9 M. **OBEY ALL LAWS**

10 Respondent shall obey all federal, state and local laws, all rules governing the  
11 practice of medicine in California, and remain in full compliance with any court ordered  
12 criminal probation, payments and other orders.

13 N. **QUARTERLY DECLARATIONS**

14 Respondent shall submit quarterly declarations under penalty of perjury on  
15 forms provided by the Division, stating whether there has been compliance with all the  
16 conditions of probation. Respondent shall submit quarterly declarations not later than 10  
17 calendar days after the end of the preceding quarter.

18 O. **PROBATION UNIT COMPLIANCE**

19 Respondent shall comply with the Division's probation unit. Respondent shall,  
20 at all times, keep the Division informed of Respondent's business and residence addresses.  
21 Changes of such addresses shall be immediately communicated in writing to the Division or  
22 its designee. Under no circumstances shall a post office box serve as an address of record,  
23 except as allowed by Business and Professions Code section 2021(b).

24 Respondent shall not engage in the practice of medicine in Respondent's place  
25 of residence. Respondent shall maintain a current and renewed California physician and  
26 surgeon's license.

27 ///

28 ///

1 Respondent shall immediately inform the Division, or its designee, in writing,  
2 of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to  
3 last, more than 30 calendar days.

4 P. **INTERVIEW WITH THE DIVISION, OR ITS DESIGNEE**

5 Throughout his term of probation, Respondent shall be available in person for  
6 interviews with the Division or its designee, at Respondent's place of business or other  
7 designated location, upon request and with or without prior notice.

8 Respondent shall also be available for in person interviews a designated  
9 probation office of the Medical Board of California, with prior notice.

10 Q. **RESIDING OR PRACTICING OUT-OF-STATE**

11 In the event Respondent should leave the State of California to reside or to  
12 practice medicine in another state, Respondent shall notify the Division or its designee in  
13 writing 30 calendar days prior to his date of departure. Non-practice is defined as any period  
14 of time exceeding 30 calendar days in which Respondent is not engaging in any activities  
15 defined in Sections 2051 and 2052 of the Business and Professions Code within the State of  
16 California.

17 All time spent in an intensive training program outside the State of California,  
18 which has been approved by the Division or its designee, shall be considered as time spent in  
19 the practice of medicine within the State. A Board-ordered suspension of practice shall not  
20 be considered as a period of non-practice. Periods of temporary or permanent residence or  
21 practice outside California will not apply to the reduction of the probationary term. Periods  
22 of temporary or permanent residence or practice outside California will relieve Respondent of  
23 the responsibility to comply with the probationary terms and conditions with the exception of  
24 this condition and the following terms and conditions of probation: Obey All Laws;  
25 Probation Unit Compliance; and Cost Recovery.

26 Respondent's California medical license shall be automatically canceled if his  
27 periods of temporary or permanent residence or practice outside California total two years.  
28 However, Respondent's license shall not be canceled as long as Respondent is residing and

1 practicing medicine in another state of the United States and is on active probation with the  
2 medical licensing authority of that state, in which case the two year license cancellation  
3 period shall begin on the date probation is completed or terminated in that state.

4 R. **FAILURE TO PRACTICE MEDICINE - CALIFORNIA**  
5 **RESIDENT**

6 In the event Respondent continues to reside in the State of California and for  
7 any reason stops practicing medicine in California, Respondent shall notify the Division or its  
8 designee in writing within 30 calendar days prior to the dates of non-practice. Any period of  
9 non-practice within California, as defined in this condition, will not apply to the reduction of  
10 the probationary term and does not relieve Respondent of the responsibility to comply with  
11 all terms and conditions of probation. Non-practice is defined as any period of time  
12 exceeding 30 calendar days in which Respondent is not engaging in any activities defined in  
13 sections 2051 and 2052 of the Business and Professions Code.

14 All time spent in an intensive training program within California, which has  
15 been approved in advance by the Division or its designee, shall be considered time spent in  
16 the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered  
17 suspension or in compliance with any other condition of probation, shall not be considered a  
18 period of non-practice.

19 Respondent's medical license shall be automatically canceled if Respondent  
20 resides in California and for a total of two years, fails to engage in any of the activities  
21 described in Business and Professions Code sections 2051 and 2052 within California.

22 S. **COMPLETION OF PROBATION**

23 Respondent shall satisfy all financial obligations required by this Stipulation  
24 (e.g., cost recovery and probation costs) not later than 120 calendar days prior to the  
25 completion of probation. Satisfaction of such costs are a condition precedent to final  
26 termination of probation. Upon successful completion of probation, Respondent's certificate  
27 shall be fully restored.

28 ///

1                   T.     **VIOLATION OF PROBATION**

2                   Failure to fully comply with any term or condition of probation is a violation  
3 of probation. If Respondent violates probation in any respect, the Division, after giving  
4 Respondent notice and the opportunity to be heard, may revoke probation and carry out the  
5 disciplinary order that was stayed. If an Accusation, Petition to Revoke Probation, or an  
6 Interim Suspension Order is filed against Respondent during probation, the Division shall  
7 have continuing jurisdiction until the matter is final, and the period of probation shall be  
8 extended until the matter is final.

9                   U.     **LICENSE SURRENDER**

10                  Following the effective date of this Decision, if Respondent ceases practicing  
11 due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of  
12 probation, Respondent may request the voluntary surrender of his medical license. The  
13 Division reserves the right to evaluate Respondent's request and to exercise its discretion  
14 whether or not to grant the request, or to take any other action deemed appropriate and  
15 reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
16 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Division  
17 or its designee and Respondent shall no longer practice medicine. Respondent will no longer  
18 be subject to the terms and conditions of probation and the surrender of Respondent's license  
19 shall be deemed disciplinary action. If Respondent re-applies for a medical license, the  
20 application shall be treated as a petition for reinstatement of a revoked certificate.

21                  15.     Respondent agrees to comply with the requirements of all provisions of  
22 this Stipulation, in the time and manner specified herein. Failure to do so shall constitute not  
23 only a violation of probation, but also a separate and additional act, or acts, of general  
24 unprofessional conduct for which additional discipline may be sought and thereafter imposed  
25 by the Division.

26                  16.     If the Division adopts this Stipulation, and Respondent thereafter fails  
27 to fulfill his obligations as set forth herein, the Division, in its sole discretion, may take  
28 whatever action it deems necessary to protect the public health, safety and welfare, including

1 resuming the prosecution of the Accusation and Petition to Revoke Probation appended hereto  
2 as **Exhibit A**. If such shall occur, except for this paragraph, this Stipulation will no longer  
3 be of any force or effect and it shall be inadmissible in any legal action between the parties.  
4 Upon nullification of this Stipulation, the Board, in its sole discretion, may proceed on the  
5 original Accusation and Petition to Revoke Probation in this matter, or may proceed on an  
6 amended and/or supplemental Accusation and/or may proceed in any manner or in any  
7 fashion it deems appropriate.

Respondent hereby agrees to waive any affirmative statute of limitations defense that may then exist as to the currently pending charges in the Accusation and Petition to Revoke Probation, appended hereto as **Exhibit A**, should the Division be compelled, for the reasons specified in this paragraph, to resume the prosecution of the allegations in the original Accusation and Petition to Revoke Probation.

13                    17. This Stipulation is intended by the parties to be an integrated writing  
14 representing the complete, final and exclusive embodiment of the agreements of the parties  
15 herein.

## CONTINGENCY

17 This Stipulation shall be subject to the approval of the Division of Medical  
18 Quality. Respondent and his counsel understand and agree that Medical Board staff and  
19 counsel for Complainant may communicate directly with the Division regarding this  
20 Stipulated Settlement and Disciplinary Order, without notice to or participation by  
21 Respondent or his counsel.

22                   If the Division fails to adopt this Stipulation as its Order, the Stipulation shall  
23 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action  
24 between the parties, and the Division shall not be disqualified from further action in this  
25 matter by virtue of its consideration of this Stipulation.

26 |||

27 |||

28 |||

1 ACCEPTANCE

2 I have read the above Stipulated Settlement and Disciplinary Order and have  
3 fully discussed the terms and conditions and other matters contained therein with my  
4 attorney, William R. Winship, Esq.

5 I understand the effect this Stipulated Settlement and Disciplinary Order will  
6 have on my Physician and Surgeon's Certificate, and agree to be bound thereby.

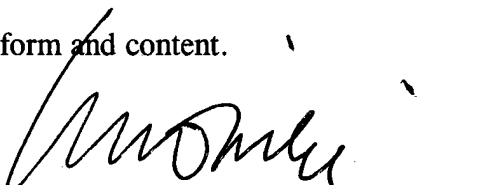
7 I enter into this Stipulation freely, knowingly, intelligently and voluntarily.

8 DATED: 1-8-2004

9   
10 DALE R. MONGRAIN, M.D.  
Respondent

11 I have read and have fully discussed the terms and conditions and other matters  
12 contained in this Stipulated Settlement and Disciplinary Order with Respondent, DALE R.  
13 MONGRAIN, M.D., and I approve of its form and content.

14 DATED: 1-8-04


15   
16 WILLIAM R. WINSHIP, Esq.,  
Attorney for Respondent

17 ENDORSEMENT

18 This Stipulated Settlement and Disciplinary Order is hereby respectfully  
19 submitted for consideration by the Division of Medical Quality, Medical Board of California,  
20 Department of Consumer Affairs.

21 DATED: Aug 8, 2004

22 BILL LOCKYER, Attorney General  
23 of the State of California

24   
25 D. KENNETH BAUMGARTEN  
26 Deputy Attorney General  
Attorneys for Complainant

27 **Exhibit A:** Accusation and Petition to Revoke Probation  
28 Nos. D-1 10-1997-080340 / 19-2000-114368



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT A**

**ACCUSATION**  
**and**  
**PETITION TO REVOKE PROBATION**

**Nos. D-1 10-1997-080340 / 19-2000-114368**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 D. KENNETH BAUMGARTEN, State Bar No. 124371  
Deputy Attorney General  
3 California Department of Justice  
110 West "A" Street, Suite 1100  
4 San Diego, CA 92101

5 P.O. Box 85266  
San Diego, CA 92186-5266  
6 Telephone: (619) 645-2195  
Facsimile: (619) 645-2061  
7

8 Attorneys for Complainant

9 **BEFORE THE**  
**DIVISION OF MEDICAL QUALITY**  
10 **MEDICAL BOARD OF CALIFORNIA**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation and Petition to  
Revoke Probation Against:

13 DALE R. MONGRAIN, M.D.  
14 135 Main Street  
Brawley, California 92227

15 Physician's and Surgeon's Certificate  
16 No. G 29446

17 Respondent.  
18

Case No. D1-1997-080340

**ACCUSATION AND PETITION  
TO REVOKE PROBATION**

19 Complainant alleges:

20 **PARTIES**

21 1. Ron Joseph ("Complainant") brings this Petition to Revoke Probation  
22 solely in his official capacity as the Executive Director of the Medical Board of California,  
23 Department of Consumer Affairs.

24 2. On or about June 16, 1975, the Medical Board of California issued Physician's  
25 and Surgeon's Certificate No. G29446 to Dale R. Mongrain, M.D. ("Respondent"). Said certificate  
26 was in full force and effect at all times relevant to the charges brought herein and will expire on  
27 December 31, 2003, unless renewed.

28 ///

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO March 28 20 02  
BY Patricia S. Mosher

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

6. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Division deems proper.

“The Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“(b) Gross negligence.

“(c) Repeated negligent acts.

“(d) Incompetence.

“(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

“(f) Any action or conduct which would have warranted the denial of a certificate.”

(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional; activities:

2

1 (2) Knowingly prepare, make, or subscribe in any writing,  
2 with the intent to present or use the same, or to allow it to be  
presented or used in support of any false or fraudulent claim.

3 9. Section 725 of the Code states that "repeated acts of clearly excessive  
4 prescribing or administering of drugs or treatment, repeated acts of clearly excessive use of  
5 diagnostic procedures, or repeated acts of clearly excessive use of diagnostic treatment facilities as  
6 determined by the standard of the community of licensees" is unprofessional conduct.

7 10. Section 2261 of the Code states that "knowingly making or signing any  
8 certificate or other document directly or indirectly related to the practice of medicine which falsely  
9 represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct."

10 11. Section 2266 of the Code states that "the failure of a physician and surgeon  
11 to maintain adequate and accurate records relating to the provision of services to their patients  
12 constitutes unprofessional conduct."

13 12. Disciplinary Order in Case No. 10-1997-80340 provides in paragraph 5, page  
14 7, that respondent shall obey all federal, state and local laws, all rules governing the practice of  
15 medicine in California, and remain in full compliance with any court ordered criminal probation,  
16 payments and other orders.

17 13. Section 125.3 of the Code provides, in pertinent part, that the Division may  
18 request the administrative law judge to direct a licensee found to have committed a violation or  
19 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
20 and enforcement of the case.

21 14. Section 14124.12 of the Welfare and Institutions Code states, in pertinent part:

22 "(a) Upon receipt of written notice from the Medical Board of  
23 California, the Osteopathic Medical Board of California, or the Board  
24 of Dental Examiners of California, that a licensee's license had been  
25 placed on probation as a result of a disciplinary action, the department  
26 may not reimburse any Medi-Cal claim for the type of surgical service  
27 or invasive procedure that gave rise to the probation, including any  
28 dental surgery or invasive procedure, that was performed by the  
licensee on or after the effective date of probation and until the  
termination of all probationary and conditions or until the  
probationary period has ended, whichever occurs first. This section  
shall apply except in any case in which the relevant licensing board

///

1 determines that compelling circumstances warrant the continued  
2 reimbursement during the probationary period of any Medi-Cal claim,  
3 including any claim for dental services, as so described. In such a  
4 case, the department shall continue to reimburse the licensee for all  
procedures, except for those invasive or surgical procedures for which  
the licensee was placed on probation."

5 FIRST CAUSE FOR DISCIPLINE AND REVOCATION OF PROBATION

6 (Gross Negligence, Repeated Negligent Acts, Incompetence, Dishonesty)

7 15. Respondent is subject to disciplinary action as a result of his violating  
8 section 2234(b), (c), (d), and (e) on account of the following:

9 A. On or about June 8, 1999, 36 year-old M.D. sustained a  
10 work related injury as a result of a fall he took on the job. He was evaluated that  
11 same day at Pioneer Memorial Hospital in Brawley. The medical evaluation  
12 included x-rays of the lumbar spine, left hip, pelvis and chest. They were negative  
13 for fracture. At the time he was discharged from the emergency room, M.D. was  
14 diagnosed with a sprain of the lower back and left hip, and a left chest wall  
15 contusion.

16 B. Respondent examined M.D. later that same day following  
17 his discharge. His exam purportedly revealed extreme pain in the chest region.  
18 Respondent diagnosed frontal right rib tenderness and possible kidney swelling.  
19 He also prescribed a regimen of physical therapy, and various pain medications  
20 including Talwin, Toradol, Vistaril, and Robaxin. Respondent also ordered a  
21 urine culture and various blood studies.

22 C. During the next several weeks, respondent saw M.D. on a  
23 daily basis for various complaints of neck, chest, and low back pain. Respondent  
24 ordered extensive physical therapy, intramuscular pain medication, intramuscular  
25 relaxants, and steroid and local anesthetic injections into various tender areas.

26 D. Although M.D. was satisfactory to return to work on or  
27 about June 15, 1999, he continued treatment with respondent until July 20, 1999,  
28 at which time respondent described the patient as non-compliant.

1 E. During the course of treatment, respondent prescribed  
2 substantial amounts of strong pain medications such as Lortab, Vicodin, Talwin  
3 and Toradol, in addition to substantial amounts of Vistaril and Robaxin.

4 15. Respondent committed gross negligence, repeated acts of negligence,  
5 incompetence and dishonest acts during his care and treatment of M.D. on account of the  
6 following:

7 A. At the time patient M.D. first presented, respondent failed  
8 to take a complete history and physical, failing to learn that patient M.D. had a  
9 past history of drug abuse.

10 B. Respondent failed to document why he diagnosed a  
11 possible swollen kidney.

12 C. Respondent gave patient M.D. an excessive amount of  
13 injections of pain medications, continuing that modality for several weeks.

14 D. Respondent provided an excessive amount of physical  
15 therapy, by seeing the patient virtually every day after the initial visit, and by  
16 using up to seven different treatment modalities at a treatment session.

17 E. Respondent injected steroid and local anesthetics on  
18 multiple occasions at multiple sites on patient M.D.'s body.

19 F. Respondent prescribed an excessive amount of muscle  
20 relaxants and other narcotic like medications given patient M.D.'s past history of  
21 drug abuse.

22 G. Respondent billed \$21,000 for the care and treatment of  
23 patient M.D.

24 H. Respondent ordered unnecessary lab tests.

25 ///

26 ///

27 ///

28 ///

1                    SECOND CAUSE FOR DISCIPLINE AND REVOCATION OF PROBATION

2                                    ( Insurance Fraud)

3                    16.     Respondent is subject to disciplinary action for violating Code section 810  
4 in that he committed Insurance Fraud by submitting bills for charges in excess of \$20,000 for the  
5 care and treatment of patient M.D. Paragraphs 14 and 15, in their entirety, are incorporated by  
6 reference as if fully set forth herein.

7                    THIRD CAUSE FOR DISCIPLINE AND REVOCATION OF PROBATION

8                                    (Excessive Prescribing or Treatment)

9                    17.     Respondent is subject to disciplinary action for violating Code section 725  
10 in that he repeatedly excessively prescribed to and/or treated M.D. Respondent repeatedly  
11 prescribed excessive amounts of pain medications, injected excessive amounts of steroids and  
12 local anesthetics, and authorized excessive physical therapy to patient M.D., as set forth in  
13 paragraphs 14 and 15, which are incorporated by reference as if fully set forth herein.

14                    FOURTH CAUSE TO DISCIPLINE AND REVOKE PROBATION

15                                    (Violation of Probation and Inadequate Documentation)

16                    18.     Respondent is subject to disciplinary action under section 2266 and subject  
17 to revocation of probation under Disciplinary Order 10-97-80340, paragraph 5. The  
18 circumstances are as follows:

19                                    A.     On or about December 19, 2001, respondent met with his monitor  
20 Dr. B.B. At that time he presented for the monitor's review 16 patient charts. In his  
21 January 7, 2002, letter to the Medical Board about that review the monitor wrote:  
22                                    "Unfortunately, many of these charts **continue** to exhibit evidence  
23 of routine ordering of multiple lab tests, without regard to patient's presenting  
24 complaint . . . . In addition, a number of charts demonstrated the ordering of  
25 in-office spirometry, EKGs, and occasional holter monitoring without clear  
26 indications for such testing." [emphasis added].

27                    ///

28                    ///

1 B. The monitor also expressed some concerns about potential  
2 patient safety as a result of respondent's inability to respond to abnormal lab  
3 results.

4 "Lastly, and most concerning, there was new evidence of critical  
5 lab values - such as potassium of 8.6, or a prothrombin time of 90 in a patient on  
6 coumadin, being filed in the chart without any evidence or documentation that the  
7 patient was emergently contacted for repeat testing, or that necessary adjustments  
8 in the patient's medication level or electrolyte status were made - **or even**  
9 **considered. This is particularly concerning in that inattention to these values**  
10 **could be life-threatening for a patient.**" [emphasis added].

11 C. After being contacted by respondent, who, in turn, had been  
12 contacted by his attorney, the monitor wrote the probation supervising investigator  
13 a letter on February 12, 2002, and attempted to emphasize that his prior letter  
14 reflected on respondent's lack of necessary documentation, not his medical  
15 judgment. Referring to his January 2002 letter the monitor said, "In reality,  
16 however, these comments were **again** focused on Dr. Mongrain's lack of  
17 appropriate charting to justify ordering of various diagnostic lab tests, and lack of  
18 adequate documentation in the management of **potentially critical abnormal lab**  
19 **values.**" [underline in original; emphasis added].

20 20. Respondent's probation is subject to revocation because he continues to  
21 exhibit an inability to appropriately document in patients' charts to the extent it jeopardizes his  
22 patient's health, safety, and welfare. Paragraph 19 is incorporated in its entirety as if fully set  
23 forth herein.

#### 24 DISCIPLINE CONSIDERATIONS

25 21. To determine the degree of discipline, if any, to be imposed on respondent,  
26 Complainant alleges that on July 20, 1987, in Case No. D-3350, a full temporary restraining  
27 order prohibiting respondent from practicing medicine was issued. That order was dissolved on  
28 September 16, 1987. On August 5, 1987, an Accusation was filed against respondent and on



February 29, 1988, a decision became effective which stayed revocation of respondent's license and put him on probation with terms and conditions for three (3) years. On February 28, 1991, that probation was completed.

22. To determine the degree of discipline, if any, to be imposed on respondent, Complainant alleges in another disciplinary action entitled "In the Matter of the Accusation Against Dale R. Mongrain, M.D., Case No. 10-1997-080340, the Division of Medical Quality, Medical Board of California ("Division"), issued a decision, effective February 14, 2000, in which Respondent's Physician's and Surgeon's Certificate was again revoked. However, the revocation was again stayed and respondent's certificate was placed on probation for a period of five (5) years with certain terms and conditions, including his being monitored by another physician. A copy of that decision is attached as Exhibit "A" and is incorporated by reference.

## PRA YER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Division of Medical Quality issue a decision:

1. Revoking the probation that was granted by the Medical Board of California in Case No. 10-97-80340, and imposing the disciplinary order that was stayed thereby revoking Physician's and Surgeon's Certificate No. G29446 issued to Dale R. Mongrain, M.D.;

2. Revoking or suspending Physician's and Surgeon's Certificate No. G 29446 issued to Dale R. Mongrain, M.D.;

3. Revoking, suspending, or denying approval of Dale R. Mongrain, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code.

///

///

///

///

///

///

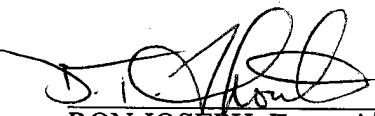
///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

4. Ordering Dale R. Mongrain, M.D. to pay the Division of Medical Quality the reasonable costs of the investigation and enforcement of this case, and, if place on further probation, the costs of probation monitoring.

5. Taking such other and further action as deemed necessary and proper.

DATED: March 28, 2002

  
RON JOSEPH, Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

03573160-SD02AD0126  
pet revoke prob.wpt 3/22/02  
SHZ:pll 3/22/02

EXHIBIT "A"

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation )  
Against: )  
)  
)  
)

DALE ROBERT MONGRAIN, M.D. )  
Certificate No. G-29446 )  
)  
)  
)  
)

No: 10-1997-80340

\_\_\_\_\_  
Respondent )

DECISION

The attached Stipulation in Settlement and Order is hereby adopted by the Division of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective at 5:00 p.m. on February 14, 2000.

IT IS SO ORDERED January 14, 2000.

By: \_\_\_\_\_



IRA LUBELL, M.D.

President

Division of Medical Quality

BILL LOCKYER, Attorney General  
of the State of California  
SANFORD FELDMAN,  
Deputy Attorney General  
State Bar No. 47775  
Department of Justice  
110 West A Street, Suite 1100  
Post Office Box 85266  
San Diego, CA 92186-5266  
Telephone: (619) 645-2079

Attorneys for Complainant

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation ) Case No. 10-97-80340  
Against: )

DALE ROBERT MONGRAIN, M.D. )

135 Main Street )

P.O. Box 159 )

Brawley, CA 92227 )

Physician's and Surgeon's )

Certificate No. G 29446 )

Respondent. )

STIPULATION  
IN SETTLEMENT  
AND ORDER

Complainant, Ron Joseph, Executive Director of the  
Medical Board of California ("Board"), by and through his  
attorney, Bill Lockyer, Attorney General of the State of  
California, by Sanford Feldman, Deputy Attorney General, and Dale  
Robert Mongrain, M.D. ("respondent"), by and through his attorney  
William R. Winship, Esq., hereby stipulate as follows:

1. The Division of Medical Quality of the Board  
("Division") acquired jurisdiction over respondent by reason of  
the following:

1           A.   Respondent was duly served with a copy of the  
2           Accusation, Statement to Respondent, Request for Discovery,  
3           Form Notice of Defense and copies of Government Code  
4           sections 11507.5, 11507.6 and 11507.7 as required by section  
5           11503 and 11505, and respondent timely filed a Notice of  
6           Defense within the time allowed by section 11506 of the  
7           code.

8           B.   Respondent has received and read the  
9           Accusation which is presently on file as Case No. 10-97-  
10          80340 before the Division. Respondent understands the  
11          nature of the charges alleged in the Accusation and that the  
12          charges and allegations constitute cause for imposing  
13          discipline upon respondent's license to practice medicine  
14          which was issued by the Board.

15          2.   Respondent and his counsel are aware of each of  
16          respondent's rights, including the right to a hearing on the  
17          charges and allegations, the right to confront and cross-examine  
18          witnesses who would testify against respondent, the right to  
19          present evidence in his favor and call witnesses on his behalf,  
20          or to testify, his right to contest the charges and allegations,  
21          and other rights which are accorded to respondent pursuant to the  
22          California Administrative Procedure Act (Gov. Code, § 11500 et  
23          seq.), including the right to seek reconsideration, review by the  
24          superior court, and appellate review.

25          3.   Respondent freely and voluntarily waives each and  
26          every one of the rights set forth in paragraph 2.

27        ///

1           4.   Respondent understands that in signing this  
2 stipulation rather than contesting the Accusation, he is enabling  
3 the Division to issue the following order without further  
4 process.

5           5.   For the purpose of resolving Accusation  
6 No. 10-97-80340, respondent admits that he failed to maintain  
7 adequate and accurate medical records, in violation of Business  
8 and Professions Code section 2266, as alleged in the Accusation.  
9 Respondent hereby gives up his right to contest the charges and  
10 allegations in the Accusation and agrees to be bound by the  
11 Division's Disciplinary Order as set forth below.

12           6.   It is understood by respondent that, in deciding  
13 whether to adopt this stipulation, the Division may receive oral  
14 and written communications from its staff and the Attorney  
15 General's office. Communications pursuant to this paragraph  
16 shall not disqualify the Division or other persons from future  
17 participation in this or any other matter affecting respondent.  
18 In the event this settlement is not adopted by the Division, the  
19 stipulation will not become effective and may not be used for any  
20 purpose, except for this paragraph, which shall remain in effect.

21           7.   This Stipulation in Settlement and Decision is  
22 intended by the parties herein to be an integrated writing  
23 representing the complete, final and exclusive embodiment of the  
24 agreements of the parties.

25           8.   The parties agree that facsimile copies of this  
26 Stipulation, including facsimile signatures of the parties, may  
27 be used in lieu of original documents and signatures. The

1 facsimile copies will have the same force and effect as  
2 originals.

3 9. Based upon the foregoing, it is stipulated and  
4 agreed that the Division may issue the following as its decision  
5 in this case.

6 **ORDER**

7 IT IS HEREBY ORDERED that Physician's and Surgeon's  
8 Physician's and Surgeon's Certificate No. G 29446 issued to Dale  
9 Robert Mongrain, M.D., is revoked. However, revocation of said  
10 certificate is stayed and respondent is placed on probation for  
11 five (5) years on the terms and conditions set forth below.  
12 Within 15 days after the effective date of this decision,  
13 respondent shall provide the Division, or its designee, proof of  
14 service that respondent has served a true copy of this decision  
15 on the Chief of Staff or the Chief Executive Officer at every  
16 hospital where privileges or membership are extended to  
17 respondent or where respondent is employed to practice medicine  
18 and on the Chief Executive Officer at every insurance carrier  
19 where malpractice insurance coverage is extended to respondent.

20 1. **EDUCATION COURSE**

21 Within 90 days from the effective date of this  
22 decision, and on an annual basis thereafter, respondent shall  
23 submit to the Division or its designee for its prior approval an  
24 educational program or course to be designated by the Division,  
25 which shall not be less than 25 hours per year for each year of  
26 probation. This program shall be in addition to the Continuing  
27 Medical Education requirements for re-licensure. Following the



1 completion of each course, the Division or its designee may  
2 administer an examination to test respondent's knowledge of the  
3 course. Respondent shall provide proof of attendance for 45  
4 hours of continuing medical education of which 25 hours were in  
5 satisfaction of this condition and were approved in advance by  
6 the Division or its designee.

7           2.     **ETHICS COURSE**

8           Within sixty (60) days of the effective date of  
9 this decision, respondent shall enroll in a course in Ethics  
10 approved in advance by the Division or its designee, and shall  
11 successfully complete the course during the first year of  
12 probation.

13           3.     **CLINICAL TRAINING PROGRAM**

14           Within 90 days from the effective date of this  
15 decision, respondent, at his expense, shall enroll in The  
16 Physician Assessment and Clinical Education Program at the  
17 University of California, San Diego School of Medicine  
18 (hereinafter, the "PACE Program") and shall undergo assessment,  
19 clinical training and examination. First, respondent shall  
20 undergo the comprehensive assessment program including the  
21 measurement of medical skills and knowledge and the appraisal of  
22 physical health and psychological testing. After assessment, the  
23 PACE Evaluation Committee will review all results and make a  
24 recommendation to the Division or its designee and the respondent  
25 and other authorized personnel regarding clinical training  
26 (including scope and length), treatment of any medical and/or  
27 psychological condition and any other matters affecting

1 respondent's practice of medicine. Upon approval of the  
2 recommendation by the Division or its designee, respondent shall  
3 undertake and complete the recommended and approved PACE Program.  
4 At the completion of the PACE Program, respondent shall submit to  
5 examination on its contents and substance. The examination shall  
6 be designed and administered by the PACE Program faculty.  
7 Respondent shall not be deemed to have successfully completed the  
8 program unless he passes the examination. Respondent agrees that  
9 the determination of the PACE Program faculty as to whether or  
10 not he passed the examination and/or successfully completed the  
11 PACE Program shall be binding.

12           Respondent shall complete the PACE Program no later  
13 than six months after his initial enrollment unless the Division  
14 or its designee agrees in writing to a later time for completion.

15           If respondent successfully completes the PACE Program,  
16 including the examination referenced above, he agrees to cause  
17 the PACE Program representative to forward a Certification of  
18 Successful Completion of the program to the Division or its  
19 designee. If respondent fails to successfully complete the PACE  
20 Program within the time limits outlined above, he shall be  
21 suspended from the practice of medicine.

22           Failure to participate in, and successfully complete  
23 all phases of the PACE Program, as outlined above, shall  
24 constitute a violation of probation.

25           **4. MONITORING**

26           Within 30 days of the effective date of this decision,  
27 respondent shall submit to the Division or its designee for its

1 prior approval a plan of practice by which respondent's  
2 determinations of appropriate laboratory testing and his billing  
3 for such testing shall be monitored for the first two years of  
4 probation by another physician in respondent's field of practice,  
5 who shall provide periodic reports to the Division or its  
6 designee.

7           If the monitor resigns or is no longer available,  
8 respondent shall, within 15 days, move to have a new monitor  
9 appointed, through nomination by respondent and approval by the  
10 Division or its designee.

11           **5. OBEY ALL LAWS**

12           Respondent shall obey all federal, state and local  
13 laws, all rules governing the practice of medicine in California,  
14 and remain in full compliance with any court ordered criminal  
15 probation, payments and other orders.

16           **6. QUARTERLY REPORTS**

17           Respondent shall submit quarterly declarations under  
18 penalty of perjury on forms provided by the Division, stating  
19 whether there has been compliance with all the conditions of  
20 probation.

21           **7. PROBATION SURVEILLANCE PROGRAM COMPLIANCE**

22           Respondent shall comply with the Division's probation  
23 surveillance program. Respondent shall, at all times, keep the  
24 Division informed of his or her addresses of business and  
25 residence which shall both serve as addresses of record. Changes  
26 of such addresses shall be immediately communicated in writing to

27 /././

1 the Division. Under no circumstances shall a post office box  
2 serve as an address of record.

3 Respondent shall also immediately inform the Division,  
4 in writing, of any travel to any areas outside the jurisdiction  
5 of California which lasts, or is contemplated to last, more than  
6 30 days.

7 **8. INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS**  
8 **DESIGNATED PHYSICIAN(S)**

9 Respondent shall appear in person for interviews with  
10 the Division, its designee or its designated physician(s) upon  
11 request at various intervals and with reasonable notice.

12 **9. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR**  
13 **IN-STATE NON-PRACTICE**

14 In the event respondent should leave California to  
15 reside or to practice outside the State or for any reason should  
16 respondent stop practicing medicine in California, respondent  
17 shall notify the Division or its designee in writing within ten  
18 days of the dates of departure and return or the dates of non-  
19 practice within California. Non-practice is defined as any  
20 period of time exceeding 30 days in which respondent is not  
21 engaging in any activities defined in Sections 2051 and 2052 of  
22 the Business and Professions Code. All time spent in an  
23 intensive training program approved by the Division or its  
24 designee shall be considered as time spent in the practice of  
25 medicine. Periods of temporary or permanent residence or  
26 practice outside California or of non-practice within California,  
27 as defined in this condition, will not apply to the reduction of

1 the probationary period. During periods of temporary or  
2 permanent residence or practice outside California or of non-  
3 practice within California; as defined in this condition,  
4 respondent is not required to comply with any terms and  
5 conditions of probation other than the requirement for the  
6 payment of cost recovery, as set in paragraph 13 below.

7           10.     **COMPLETION OF PROBATION**

8           Upon successful completion of probation, respondent's  
9 certificate shall be fully restored.

10           11.     **VIOLATION OF PROBATION**

11           If respondent violates probation in any respect, the  
12 Division, after giving respondent notice and the opportunity to  
13 be heard, may revoke probation and carry out the disciplinary  
14 order that was stayed. If an accusation or petition to revoke  
15 probation is filed against respondent during probation, the  
16 Division shall have continuing jurisdiction until the matter is  
17 final, and the period of probation shall be extended until the  
18 matter is final.

19           12.     **COST RECOVERY**

20           Within 90 days of the effective date of this order,  
21 respondent shall pay the Division the amount of \$2,850.50 for its  
22 investigation and prosecution costs. Failure to reimburse the  
23 Division's cost of its investigation and prosecution as set forth  
24 herein shall constitute a violation of the probation order,  
25 unless the Division agrees in writing to payment by an  
26 installment plan because of financial hardship. The filing of  
27 bankruptcy by the respondent shall not relieve the respondent of

1 his/her responsibility to reimburse the Division for its  
2 investigative and prosecution costs.

3           **13. PROBATION MONITORING COSTS**

4           Respondent shall pay the costs associated with  
5 probation monitoring each and every year of probation. Such  
6 costs, which are currently set at \$2,304 per year and may vary  
7 from year to year, shall be payable to the Division at the  
8 beginning of each calendar year. Failure to pay such costs shall  
9 constitute a violation of probation.

10           **14. LICENSE SURRENDER**

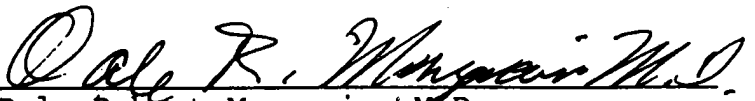
11           Following the effective date of this decision, if  
12 respondent ceases practicing due to retirement, health reasons or  
13 is otherwise unable to satisfy the terms and conditions of  
14 probation, respondent may voluntarily tender his/her certificate  
15 to the Division. The Division reserves the right to evaluate the  
16 respondent's request and to exercise its discretion whether to  
17 grant the request, or to take any other action deemed appropriate  
18 and reasonable under the circumstances. Upon formal acceptance  
19 of the tendered license, respondent will no longer be subject to  
20 terms and conditions of probation.

21                           **ACCEPTANCE**

22           I have carefully read and fully understand the  
23 stipulation and order set forth above. I have discussed the  
24 terms and conditions set forth in the stipulation and order with  
25 my attorney, William R. Winship, Esq. I understand that in  
26 signing this stipulation I am waiving my right to a hearing on  
27 the charges set forth in the Accusation on file in this matter.


1 I further understand that in signing this stipulation the  
2 Division may enter the foregoing order placing certain  
3 requirements, restrictions and limitations on my right to  
4 practice medicine in the State of California.

5 DATED: 12/21/99

8   
9 Dale Robert Mongrain, M.D.  
Respondent

10 I concur in the Stipulation.

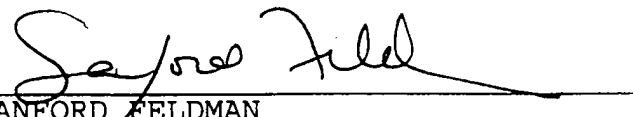
11 DATED: 12/21/99

14   
15 WILLIAM R. WINSHIP  
16 Attorney for Respondent

17 I concur in the Stipulation.

18 DATED: 12/21/99

19 BILL LOCKYER, Attorney General  
20 of the State of California

22   
23 SANFORD FELDMAN  
24 Deputy Attorney General  
25 Attorneys for Complainant

26 sf\c:\dat\stipulations\  
27 mbc\mongrain\mbc.12/21/99